

CS FOR HOUSE BILL NO. 339(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/21/96

Referred: Rules

Sponsor(s): REPRESENTATIVES ROKEBERG, Mulder, Robinson, B.Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to children-in-need-of-aid proceedings; allowing termination of
2 parental rights with respect to a child in need of aid as a result of parental
3 conduct or parental incarceration if the conduct or incarceration is likely to
4 continue to exist sufficiently long to seriously damage the parent and child
5 relationship or to cause serious emotional or physical harm to the child; and
6 providing for an effective date."

7 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 * **Section 1.** PURPOSE. The purpose of this Act is to respond to the Alaska Supreme
9 Court's invitation in A.M. v. State of Alaska, 891 P.2d 815 (Alaska 1995) and Nada A. v. State
10 of Alaska, 660 P.2d 436 (Alaska 1983) to create a statutory basis for making incarceration a
11 factor that can be considered in termination proceedings concerning children in need of aid.

12 * **Sec. 2.** AS 47.10.080(c) is amended to read:

13 (c) If the court finds that the minor is a child in need of aid, it shall

1 (1) order the minor committed to the department for placement in an
2 appropriate setting for a period of time not to exceed two years or in any event past the
3 date the minor becomes 19 years of age, except that the department may petition for and
4 the court may grant in a hearing (A) two-year extensions of commitment that do not
5 extend beyond the minor's 19th birthday if the extension is in the best interests of the
6 minor and the public; and (B) an additional one-year period of supervision past age 19
7 if the continued supervision is in the best interests of the person and the person consents
8 to it; the department may transfer the minor, in the minor's best interests, from one
9 placement setting to another, and the minor, the minor's parents or guardian, and the
10 minor's attorney are entitled to reasonable notice of the transfer;

11 (2) order the minor released to the minor's parents, guardian, or some
12 other suitable person, and, in appropriate cases, order the parents, guardian, or other
13 person to provide medical or other care and treatment; if the court releases the minor,
14 it shall direct the department to supervise the care and treatment given to the minor, but
15 the court may dispense with the department's supervision if the court finds that the adult
16 to whom the minor is released will adequately care for the minor without supervision;
17 the department's supervision may not exceed two years or in any event extend past the
18 date the minor reaches age 19, except that the department may petition for and the court
19 may grant in a hearing

20 (A) two-year extensions of supervision that do not extend beyond
21 the minor's 19th birthday if the extension is in the best interests of the minor and
22 the public; and

23 (B) an additional one-year period of supervision past age 19 if the
24 continued supervision is in the best interests of the person and the person
25 consents to it; or

26 (3) by order, upon a showing in the adjudication by clear and convincing
27 evidence that there is a child in need of aid under AS 47.10.010(a)(2) as a result of
28 parental conduct **or incarceration**, and upon a showing in the disposition by clear and
29 convincing evidence that the parental conduct **or the period of incarceration** is likely
30 to continue to exist **sufficiently long to seriously damage the parent and child**
31 **relationship or to cause serious emotional or physical harm to the child** if there is
32 no termination of parental rights, terminate parental rights and responsibilities of one or

1 both parents and commit the child to the department or to a legally appointed guardian
2 of the person of the child, and the department or guardian shall report annually to the
3 court on efforts being made to find a permanent placement for the child.

4 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).